

# APPENDIX

## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

PLAN FOR THE FUTURE CONTROL OF MENOMINEE  
INDIAN TRIBAL PROPERTY AND FUTURE  
SERVICE FUNCTIONS

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Statement of the Plan and Description of its  
Objectives and Goals

Pursuant to section 896 Title 25, U. S. C. (sec. 7, Public Law 399, 83d Cong., as amended) a Plan such as this was submitted by the Menominee Indian Tribe (herein sometimes called "the Tribe") on January 26, 1959, to the Secretary of the Interior (herein sometimes called "the Secretary"). Under date of April 30, 1959, he wrote the Tribe stating that in view of the contingencies still attaching to our Plan, especially the unfinished legislation, he resubmitted the Plan conditionally as his Plan for a period of three months for negotiation purposes with the understanding that if the Plan should not by August 1, meet the approval of the Secretary for reasonable equity and legal conformity, he would have to take action as if there were no Plan.

On July 30, 1959, the said legislation was finished by signature of the Governor of Wisconsin on three bills on which the legislature completed action on July 24. These bills and the remainder of the Plan as revised after numerous conferences with State officials were submitted to the Secretary on July 30, 1959, which is included hereinafter.

This was accepted for the Secretary by letter of the same date which is included hereinafter.

After extensive study by the staff of the Secretary, including those in the Bureau of Indian Affairs, a conference was held by such staff with representatives of the Tribe and of the State of Wisconsin on October 26 through 29, 1959, inclusive, at which agreement was reached for changes in the detail but not the principles of the Plan, and the Secretary so stated by letter of October 30, 1959, as hereinafter included. The Plan as herein presented (and defined in the Table of Contents) includes the changes as agreed upon.

#### OBJECTIVES AND GOALS

To better insure the welfare of the Menominee people, their heirs and descendants, the Menominee Indian Study Committee and representatives of the Tribe during the course of their meetings agreed upon several objectives, which we believe it is desirable to record.

1. To promote the most beneficial use of the Menominee property, consisting substantially of forest land, State law and deed covenants were agreed upon which will enforce the maintenance of sustained yield principles in the care and preservation of the forest. It is believed that within thirty years sustained yield will have served the ultimate benefit of the Menominee people as a tribe, at the end of which time the owners can reassess their condition. If deemed advisable, the forest could be sold to or acquired in part by the State for the benefit of all its citizens, and particularly for those of Menominee extraction who wish to remain on the land.

2. To overcome gaps in essential training and experience among the 3,270 Menominee members and to lessen the influence of non-essential politics in the management of business affairs the voting trust principle was adopted as a device to better insure stability in the Menominee corporation to be.

3. Basic rights of Menominee members, their heirs and descendants, to hold residence and employment on the Menominee land are tied into the articles and by-laws as a safeguard against possible abuse of ownership or other unfair exploitation, recognizing a preferential right in such persons:

4. A merit system in government is desirable and the Menominee county board will be requested to seek its establishment. Buildings owned by the tribe and needed in governmental operations will be transferred to the best municipal use without cost to the new county or town.

5. Hospital and medical services and the continued operation of public utilities are important elements in the welfare and progress of the Menominee community and should be continued in operation. Alternatives are in question and can hardly be resolved or bound until the corporation and municipal officers can study the practical effects of the termination of Federal supervision and the commencement of State licensing and regulation.

Section 896, Title 25, U. S. C. provides as follows:

The [Menominee] tribe shall \* \* \* formulate and submit to the Secretary a plan for the future control of the tribal property and service functions now conducted by or under the supervision of the United States, including but not limited to services in the

fields of health, education, welfare, credit, roads, and law and order, and for all other matters involved in the withdrawal of Federal supervision.

The Plan formulated and submitted by the Tribe is designed to meet the requirements of the law by (1) providing machinery for municipal activities heretofore supervised by the Department of the Interior, including health, education, welfare, credit, roads, and law and order, and (2) providing a sound economic base through realization and use of communal tribal property and operation of the Menominee Forest on a sustained yield basis.

*Description of legislation.* The first objective has been achieved, to a large extent, by three laws which became a part of the Wisconsin Statutes on July 30, 1959. Chapter 259, Wisconsin Statutes, one of those laws, creates Menominee County as Wisconsin's seventy-second county. It becomes effective on the date of publication of the Termination Plan in the FEDERAL REGISTER by the Secretary under section 896, Title 25 U. S. C. This is intended to be and should be the same date as the proclamation in the FEDERAL REGISTER of transfer of property under section 899, Title 25 U. S. C. This law:

1. Creates Menominee County from all reservation areas as described therein, now included in Shawano and Oconto Counties.

2. Provides appropriate machinery for requiring and preserving necessary county records.

3. Attaches Menominee County to Shawano County for necessary judicial functions and provides that the District Attorney for Shawano County shall serve Menominee County.

4. Establishes one political town to consist of area of entire Menominee County (which will contain ten surveyor townships).

5. Attaches Menominee County to Shawano County for the purpose of the office and functions of the County Superintendent of Schools.

6. Attaches Menominee County to Shawano County for functions of the juvenile court and the judge of juvenile court.

7. Provides for the election of a Town Board by precincts and at large whose members ex-officio constitute the County Board.

8. Provides for handling of some town and county offices as part-time and combined assignments.

9. Provides machinery for assessment and collection of taxes in transition years.

10. Permits restraint on securities of any corporation or organization created by the Menominee Tribe.

11. Includes Menominee County in area of Tenth Circuit Court.

12. Creates a Shawano-Menominee County Court, and extends the jurisdiction of the Shawano City and County municipal court to the County of Menominee.

Chapter 260, Wisconsin Statutes, is a minor technical enactment required to distribute to Menominee County moneys held in escrow by the State's Treasurer. These moneys have been accumulated by the State of Wisconsin from taxes from income, intoxicating liquors and utilities.



According to Wisconsin law, these funds must be distributed to the county.

The Tribal Lending Agency has already received a transfer from the Secretary of the Interior of \$368,196.96 in tribal funds under section 897, Title 25 U. S. C.

This Agency is operated under section 224.10, Wisconsin Statutes, and now has most of these funds out on loan to tribal members. This law needs amendment by the Wisconsin Legislature in order to provide for the appointment of Trustees by another agency than the "governing body of the Tribe" and to define the eligible borrowers otherwise than as "tribal members." It is proposed to ask the Legislature of 1961 to provide for appointment of trustees by the stockholders of Menominee Enterprises, Inc., or any successor thereof, and for loans to enrolled tribal members (as of June 17, 1954, as proclaimed) and their spouses and descendants and such additional classes as may be recommended by the Trustees. If such legislation fails of passage the Commissioner of Banking of Wisconsin will be asked to approve such changes by regulations adopted by the Trustees. Until termination date no change is required, and thereafter the existing Trustees will serve out their original terms, which will permit continuity pending action proposed above.

It is unnecessary, aside from amendment of Wisconsin laws to accord with existing judicial machinery, to provide specific plans for future handling of law and order, federal jurisdiction over the Menominee Reservation having been surrendered by the United States by Public Law 280, 83d Congress, as amended (18 U. S. C. 1162). Welfare problems will be handled within the framework of state law,

particularly pursuant to specific provisions of chapter 259, Wisconsin Statutes. Agreement has been reached between the United States and the State of Wisconsin with respect to improvement and transfer of roads within the Menominee Reservation.

Chapter 258, Wisconsin Statutes, provides "a new method of taxation of forest lands required by federal law to be operated on a sustained-yield basis and the regulation of such land." This act accepts the principle that a forest required by law to be operated on sustained-yield has a fair market value equivalent to 40 percent of the fair market value of a forest owned and operated without such restriction. To be eligible for tax benefits under this chapter, the owner must apply to the Commissioner of Taxation for Wisconsin and file a forest management plan with the Conservation Commission of that State. The Conservation Commission must find that the plan provides for sustained-yield management of the forest lands consistent with sound forestry practices. (These are defined, and specific provision is made for catastrophic changes such as fire, flood, storm, and epidemic.) The Conservation Commission must inform the Commissioner of Taxation of its findings. The Commissioner of Taxation must then determine whether the forest lands involved are eligible for and qualified for taxation under chapter 258. If so, the Commissioner of Taxation orders the lands entered on a special property tax roll. The lands are then assessed as having a full value equal to 40 percent of fair market value of unrestricted forest lands. An application for taxation under chapter 258 may be denied only after hearing.

Each year, the owner of sustained-yield forest lands is required to submit a sworn statement giving data which



will enable the Conservation Department and the Commissioner of Taxation to determine whether the land involved shall continue to be taxed under this special law. Chapter 258 allows revision of the forest management plan upon submission of a revised plan not later than six months prior to the end of each cutting cycle. If the Conservation Commission finds that the revised plan is adequate to ensure continued sustained-yield management, it must enter such an order. Approval of a revised plan may not be denied without a hearing.

An owner may withdraw from sustained-yield operation any parcel of land not exceeding ten acres in size and 250 acres cumulatively in each calendar year. Larger parcels may be withdrawn only if the Commissioner of Taxation, after consultation with the Conservation Commission, finds that the lands involved may be dedicated to a higher beneficial use. Such lands may later be reinstated under chapter 258 upon appropriate application. The Commissioner of Taxation and the Conservation Commission are given the right to conduct hearings and examine all records to determine that the requirements of the law are being followed. Criminal penalties are provided for violations, such as excess cutting or failure to follow the management plan. Equitable jurisdiction is granted to the Circuit Court to compel "management and classification of lands" according to the articles of incorporation of a Wisconsin corporation.

*Description of economic plan.* The economic plan, designed to promote the highest beneficial use of the communal property, is set forth in six basic documents: (1) Articles of Incorporation of Menominee Enterprises, Inc., (2) By-Laws of Menominee Enterprises, Inc., (3) a common

stock and voting trust, (4) a bond indenture, (5) a Menominee Assistance trust, (6) a Certificate of Beneficial Interest.

One Certificate of Beneficial Interest in form attached will be issued pursuant to section 893 Title 25 U. S. C., with list attached thereto of the tribal roll of 3,270 members as of June 17, 1954 (as finally proclaimed). The Certificate will be issued as of June 17, 1954, in advance of the termination date, and will be held by the Coordinating and Negotiating Committee until that date. At that time, the Committee will mark it "cancelled" and file it with the records.

It is a part of this Plan that (1) the issue of stock to the said Coordinating and Negotiating Committee, (2) the issue of voting trust certificates to tribal members and lawful distributees of deceased members upon deposit of the stock in the Common Stock and Voting Trust, (3) the issue of income bonds, (4) the transfer of real and personal property to the said Coordinating and Negotiating Committee and/or to Menominee Enterprises, Inc., or any subsidiary, (5) the transfer of real and personal property to any public body; shall all be in substitution for and consideration of cancellation of the Certificate of Beneficial Interest and no one shall thereafter have any rights or interest in such Certificate.

Such issuance of voting trust certificate, and income bonds to individuals shall be to or for those members so proclaimed who are alive at date of termination, and to the personal representatives, heirs or next of kin under the laws of the State of Wisconsin of those members who predecease the date of termination, as personal property shall be distributable.

The plan as to the Certificate of Beneficial Interest provided herein shall constitute the regulations of the Tribe governing alienability of interests under said section 893.

A copy of the cancelled Certificate shall be delivered to each recipient of voting trust certificates and income bonds at the time of distribution thereof.

The Board of Directors of Menominee Enterprises, Inc. will be elected by the holders of the common stock. While the voting trust is in existence (it may be terminated by the tribal members who become holders of the voting trust certificates in ten, twenty, or thirty years), the voting trustees will elect the board. It is contemplated that four of the nine members of the board will be persons listed on the final Menominee roll, and the remaining five will be men of experience in industry, the professions, and government.

The interests of minor members, persons non compos mentis and those otherwise deemed in need of assistance will be entrusted to the First Wisconsin Trust Company under the terms of the Menominee Assistance Trust. The selection of this trust company was recommended by the Coordinating and Negotiating Committee of the Menominee Tribe and confirmed by the General Council in 1958. Top officials of the First Wisconsin Trust Company have long evinced keen interest in Menominee affairs, responded promptly to requests by the tribal officials, and have contributed considerable time and assistance in formulation of the Plan. Utilization of one trust company will effect considerable savings for the beneficiaries when the alternative of a multitude of guardianships is considered. It is believed that the experience and advice of First Wisconsin Trust Company will be of considerable assistance during

the formative years of Menominee Enterprises, Inc. First Wisconsin Trust Company has agreed to assume the fiduciary responsibility for the beneficiaries at rates comparable to going rates for similar activities. Any U. S. bonds held by the Federal Government for any of such beneficiaries at termination date will be released to the Menominee Assistance Trust.

*Procedure on establishment of Menominee Enterprises, Inc.* The selection of voting trustees will occur well in advance of the termination date and before any trust in fact exists. The initial voting trustees will consist of four enrolled members of the Tribe elected by the General Council and three non-tribal members selected jointly by the Advisory Council and the Coordinating and Negotiating Committee, subject to confirmation by the General Council. In case any should not be confirmed, he will be replaced by another selection by the same bodies for confirmation. It is expected that these three voting trustees will be outstanding Wisconsin citizens who have shown an interest in and understanding of the problem.

Contemporaneously with the selection of initial trustees, the members of the Coordinating and Negotiating Committee, as individuals, will incorporate Menominee Enterprises, Inc., will subscribe to all the stock as representatives of the persons entitled thereto, and hold the organizational meeting of the corporation. Before the organizational meeting of the corporation is held, the initial voting trustees will informally name the individual directors of the corporation, and those persons will be named in the articles of incorporation and will be formally elected by the subscribers to stock (the Coordinating and Negotiating

Committee) at the organizational meeting of the corporation.

After being elected, the directors will hold their first meeting and will accept the stock subscription for 327,000 shares of common stock, \$1.00 par value, for a consideration of \$327,000. The Secretary of the Interior will advance cash for this purpose from the tribal 4 percent funds. Upon paying in the \$327,000 consideration, the corporation will issue a single stock certificate to the Coordinating and Negotiating Committee for 327,000 shares of stock. That Committee will then create the voting trust, naming as trustees the persons previously selected by the General Council of the Tribe, will deposit the common stock and instruct (on direction from the Secretary) the trustees to issue voting trust certificates evidencing such stock to the enrolled members of the Tribe and their heirs or next of kin on termination date or to First Wisconsin Trust Company, in the case of persons covered by the Menominee Assistance Trust. On termination date, or shortly before, the Secretary will transfer to Menominee Enterprises, Inc., as a capital contribution all of the remaining tribal assets which are to constitute corporate property, and the corporation will issue the income bonds to enrolled members or heirs, and to First Wisconsin Trust Company for persons covered by the Menominee Assistance Trust. Such persons will be determined by the Secretary prior to such transactions by a finding under section 900, Title 25 U. S. C.

Although income bonds of \$10,000,000 will be authorized, it is proposed to issue bonds at a par value of \$3,000 to each of the 3,270 enrolled members at an aggregate of \$9,810,000 par value.



Immediately after the transfers to it, the corporation, through its Board of Directors, will make a capital contribution of all the remaining tribal assets estimated to have a value of about \$7,500,000 which will be received as a capital contribution to "paid in surplus" and later transferred by the Board and added to "stated capital."

Each Voting Trust Certificate will contain the following language:

This Certificate represents 100 shares of stock of Menominee Enterprises, Inc. The stated capital which is the net book value on January 1, 1961, was \$..... per share of stock, or \$..... for the stock represented by this certificate. This price is the cost basis to a member of the Menominee Indian Tribe for federal and state income tax purposes under section 898, Title 25 U. S. C. and section 71.015, Wisconsin Statutes, for computing gain or loss in case of sale. The corporate assets represented by the capital of the corporation consist principally of forest lands and other physical property which have a per share value at least equal to that stated above, but which will not be realized or become income producing for some time to come.

The Secretary will issue separate deeds for lands presently classified as forest lands and other lands to Menominee Enterprises, Inc. He will also issue a deed or deeds to appropriate body or bodies for designated public lands, buildings and roads for school district, county and town, and a deed and bill of sale to the organization operating the hospital. The deed for the forest lands will contain the following language.



The parties hereto mutually covenant and agree for the benefit of the State of Wisconsin that the lands conveyed hereby shall be operated on a sustained-yield basis until released therefrom under the laws of Wisconsin or by act of Congress.

The parties further mutually covenant and agree for the benefit of the State of Wisconsin that for a period of 30 years commencing with the date of this deed the ownership of lands conveyed hereby shall not be transferred, nor shall such lands be encumbered without the prior consent of the State Conservation Commission of Wisconsin and approval of the Governor of Wisconsin unless released from sustained-yield basis under the laws of Wisconsin.

A lawful order removing land from sustained-yield taxation pursuant to the Wisconsin Statutes as they now exist or as they may be amended shall constitute a method of release.

These covenants shall be enforceable only by an action for an injunction brought in its own name by the State of Wisconsin.

An appraisal of the tangible property made by tax appraisers of the State of Wisconsin shows that the Menominee Forest is worth about \$30,000,000 based on stumpage prices. Other Menominee property is valued at approximately \$4,000,000. Based on the 40 percent formula adopted by the Wisconsin Legislature, this means that the Menominee Forest is worth, under the requirement of sustained yield operation, approximately \$12,000,000. This leaves a valuation on Menominee property of approximately \$16,000,000. By increasing the annual cut on the Menominee Forest, within agreed limits of sound sustained-yield practice, it is estimated that Menominee Enterprises,

Inc. will be able to realize net earnings of \$400,000 to \$450,000 per year after taxes and before payments to stockholders. This is approximately the amount of payments made to tribal members over the past several years as so-called "stumpage payments." It is contemplated that most of this amount will be paid to holders of the income bonds to be issued by the corporation. As stated, income bonds of \$10,000,000 will be authorized bearing 4 percent interest if earned, and an aggregate of \$9,810,000 par value issued to the 3,270 enrolled members or their heirs. These bonds may be utilized for purchase of homestead or farm property from the corporation at par value under article XI of the By-Laws. They may not be sold for a period of three years, but, in the meantime, may be pledged for loans. The corporation will reserve an option to meet bona fide offers after the three year period. During the first three years, pledgees will be required to refund to the pledgors any amounts in excess of the amount pledged plus lawful charges.

The Menominee Tribe now operates a conventional sawmill. This is done pursuant to the act of March 28, 1908 (35 Stat. 51), an Act which constituted an early model for sustained-yield forestry practices. The Menominee Indian Mills have not advanced perceptibly into specialized branches of the highly competitive lumber industry. In order to survive and to improve its present economic situation, such expansion is deemed essential. Tribal leaders, the Department of the Interior, and other advisors are currently considering expansion possibilities. Promising possibilities are a veneer plant and a dimensions plant. The latter would require a relatively small financial outlay, but would utilize materials which are now largely wasted.

A comprehensive memorandum on these and other possibilities has been prepared by Mr. Arlie Toole of the Great Lakes Experiment Station and will be considered carefully by Menominee Tribal leaders and executives and directors chosen to operate Menominee Enterprises, Inc.

In addition, the Tribe and its successor Corporation have available some of the most natural commercial recreational possibilities in the United States. Development of these resources is being considered, and such study will continue. Assistant Secretary Ernst has volunteered to make available the knowledge and advice of the National Parks Service and knowledge and advice of the National Parks Service and Bureau of Fish and Wildlife in this effort. What will develop along this line is uncertain, but this is one field which will have high priority on the part of tribal leaders and the executives and Board of Directors of Menominee Enterprises, Inc.

MENOMINEE COORDINATING AND  
NEGOTIATING COMMITTEE,  
GEORGE W. KENOTE,  
*Chairman.*

GORDON DICKIE,  
MITCHELL A. DODGE,  
JEROME GRIGNON.

Approved:

GEORGE W. ABBOTT,  
*Assistant Secretary of the Interior.*